



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **200839038**
Release Date: 9/26/2008

July 3, 2008

UIL: 501.03-11

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

A =

B =

C =

D =

E =

Date 1 =

SE: T: EO: RA: T: 1

Dear :

This is in response to your request for a ruling regarding your proposed establishment of an emergency assistance fund ("Fund") to provide grants and/or loans to your current and former employees and/or their families and those of your affiliates in crises or emergency situations, as described below:

FACTS:

A, B, C, D, and E are an affiliated group of health care providers (collectively "System"). A, B, C, and D are non-profit, non-stock corporations exempt from taxation as organizations described in section 501(c)(3) of the Internal Revenue Code. B is the sole shareholder of E, a for-profit affiliate.

The System affiliates share the mission and purpose of improving the overall health and well being of people living in their community by providing excellence in health care. The System provides a broad array of tertiary, general acute, ancillary, physician, and other related services. Collectively, the System affiliates employ approximately 5,000 persons.

The Fund, as established and implemented by A on Date 1, is to provide emergency assistance to eligible needy persons who suffer economic hardship due to accident, loss, or disaster. Persons eligible for assistance include all System employees who have been employed within the System for at least six months (collectively the "Eligible Persons"). The Fund will be supported by contributions from Eligible Persons as well as from the general public. A has made an initial contribution to the Fund. Neither A nor its System affiliates will make any additional contributions to the Fund.

An 11 member committee ("Committee") governs the Fund. All of the committee members are System employees. Committee members are selected from different vocations within the System, and are appointed by A's vice president for human resources.

When an Eligible Person is in an emergency situation such as a medical emergency, an accident, or the death of an immediate family member, and is in need of financial assistance, he or she can apply to the Committee for aid from the Fund. Each application must describe the expenses for which the applicant needs assistance, the emergency circumstances necessitating the aid, and the resources available to the applicant to meet the need, and must include a certification that all information in the application is accurate. The Committee bases grants from the Fund on the applicant's need and the specific hardship or disaster facing the applicant. The Committee will review each application with reference to section 1.170A-4A(b)(2)(ii)(D) of the Income Tax Regulations to determine whether an applicant qualifies for aid from the Fund. If so, the Committee determines the amount of the grant and notifies the applicant.

No applicant is entitled to receive assistance, which is awarded in the sole discretion of the Committee. No director, trustee, or officer of any of the System affiliates will have any control or influence over grants from the Fund or the operation of the Committee. Three non-voting members of the Committee will review all applications for assistance from the Fund. These non-voting members will verify that the applicant meets the Fund's objective criteria for determining need. The non-voting members will assign each applicant a number so that the voting Committee members will not discover the applicant's identity. In the event a voting member of the Committee is able to discern the true identity of a grant applicant, that member shall not reveal such knowledge to the other voting members of the Committee, and shall immediately recuse himself or herself from voting on the application of the discerned applicant. The identity of the Committee members is kept strictly confidential.

An applicant may only receive assistance from the Fund once during a 12-month period. An award to an applicant may not exceed \$400. Additionally, there is a lifetime limit of five (5) approved applications for assistance per applicant. To date, the Committee has denied approximately forty percent of applications for assistance from the Fund.

A manager of B keeps records of each grant applicant and recipient. Such records include the name and address of each grant applicant and recipient, the amount distributed to each recipient, the purpose for which the aid was given, the date on which payment was made, the manner in which the recipient was selected, copies of bills and correspondence regarding the grant, and the relationship, if any, between the recipient and the Committee member or members, officers or trustees of the System affiliates, grantors or substantial contributors to the System affiliates, and corporations controlled by such grantors and substantial contributors.

The Fund is administered by B, which receives and manages contributions to the Fund. No contribution to the Fund may be earmarked for a specific individual. No person who contributes to the Fund is guaranteed a grant from the Fund. Further, no part of the Fund is used for funding the System affiliates' obligations to pay salaries to their employees.

The structure and operations of the Committee and the procedures used in determining the provision of assistance from the Fund are set forth in the Fund's Policies and Procedures.

You have requested the following ruling:

1. Operation of the Fund, as implemented on Date 1, will not affect the status of A, B, C, and D as organizations described in section 501(c)(3) of the Internal Revenue Code.

APPLICABLE LAW:

Section 501(c)(3) of the Code describes as exempt from federal income tax organizations organized and operated exclusively for charitable purposes (among other purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the regulations provides, in relevant part, that the term "charitable" includes relief of the poor and distressed or of the underprivileged.

Section 1.170A-4A(b)(2)(ii)(D) of the regulations defines a needy person as being a person who lacks the necessities of life, involving physical, mental, or emotional well being, as a result of poverty or temporary distress. Examples of needy persons include a person who is financially impoverished as a result of low income and a lack of financial resources, a person who temporarily lacks food or shelter (and the means to provide for it), a person who is the victim of a natural disaster (such as fire or flood), a person who is the victim of a civil disaster (such as civil disturbance), and a person who is temporarily not self sufficient as a result of a sudden and severe personal or family crisis (such as a person who is the victim of a crime of violence or who has been physically abused).

Section 1.501(c)(3)-1(d)(1) of the regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. Thus, an organization must establish that it is not organized or operated for the benefit of designated individuals.

Rev. Rul. 56-304, 1956-2 C.B. 306, provides for record-keeping requirements when charitable organizations make distributions to individuals. It states that adequate records and case histories should be maintained to show the name and address of each recipient, the amount distributed to each, the purpose for which the aid was given, the manner in which the recipient was selected and the relationship, if any, between the recipient and the Committee member or members, officers or trustees of the System affiliates, grantors or substantial contributors to the System affiliates, and corporations controlled by such grantors and substantial contributors, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

ANALYSIS:

The tax exempt purposes of the System affiliates include improving the overall health and well being of people living in their community by providing excellence in health care. A has established the Fund, and B administers the Fund, to provide emergency assistance to eligible, needy persons who suffer economic hardship due to accident, loss, or disaster. This purpose is consistent with the tax exempt purposes of the System affiliates under section 501(c)(3) of the Code.

The Committee will make grants only to needy and distressed persons based on the objective criteria set forth in section 1.170A-4A(b)(2)(ii)(D) of the regulations, which defines "needy" persons. The Committee's selection of beneficiaries is undertaken on an objective and nondiscriminatory basis designed to provide relief to persons who are needy and distressed. Although the Fund benefits only Eligible Persons within the System who meet the Fund's

qualification criteria, rather than the general public as a whole, that class of eligible beneficiaries (approximately 5000 persons) is sufficiently large and open-ended to constitute a charitable class under section 1.501(c)(3)-1(d)(2) of the regulations.

No applicant is entitled to assistance from the Fund. The Fund's grants are based on the applicant's need and the specific hardship or disaster the applicant is suffering, rather than on the applicant's identity. Applicants certify that the information contained in their applications is accurate. Non-voting members then verify the applicants' need, but do not reveal the applicants' identities to the voting Committee members. Thus, Committee members who vote on whether to grant aid from the Fund to an applicant do not know the identities of applicants. Such members are required to recuse themselves if they discover an applicant's identity. Awards from the fund for any particular individual are subject to strict limits: one grant per 12-month period of no more than \$400, and no more than five grants during the individual's lifetime. Thus, the Fund is not operated in a manner that benefits the private interests of any designated individuals, consistent with section 1.501(c)(3)-1(d)(1) of the regulations.

A manager of B keeps records of grants from the Fund that include each recipient's name and address, the amount distributed to each, the purpose for which the aid is given, the date on which payment was made, the manner in which the recipient was selected, copies of bills and correspondence regarding the grant, and the relationship, if any, between the recipient and the Committee member or members, officers or trustees of the System affiliates, grantors or substantial contributors to the System affiliates, and corporations controlled by such grantors and substantial contributors. Thus, sufficient records are maintained to substantiate the operations and decisions of the Committee as required by Rev. Rul. 56-304, 1956-2 C.B. 306.

All Eligible Persons are able to apply for a grant from the Fund. Other than A's initial contribution of seed money, the Fund will derive its support exclusively from voluntary employee contributions and contributions from the general public. The System affiliates do not make contributions to the Fund. No part of the Fund is used for funding the System affiliates' obligation to pay salaries to employees. Thus, the Fund is distinguished from a program designed to offer a type of welfare benefit to employees.

CONCLUSION:

Accordingly, we rule as follows:

Operation of the Fund, as implemented on Date 1, will not affect the exempt status of A, B, C, or D as organizations described in section 501(c)(3) of the Internal Revenue Code.

This ruling is based on the understanding that there will be no material change in the facts upon which it is based. Any changes that may have a bearing on your tax status should be reported to the Service. This ruling is further based on the understanding that no grants will be made which will result in the provision of excessive compensation to employees, and that adequate records will be kept pursuant to Rev. Rul. 56-304, supra.

This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Steven Grodnitzky
Manager, Exempt Organizations
Technical Group 1

Enclosure: Notice 437